

NOTICE TO THE BAR

UPDATED PROPOSED AMENDMENTS TO RULE 1:38 (“PUBLIC ACCESS TO COURT RECORDS AND ADMINISTRATIVE RECORDS”) TO EXCLUDE FROM PUBLIC ACCESS MEDICAL AND RELATED RECORDS -- PUBLICATION FOR COMMENT

The Supreme Court invites written comments on proposed amendments to Rule 1:38-3 that would exclude from public access medical, psychiatric, psychological, and alcohol and drug dependency records, reports, and evaluations, except for statements required for medical billing that do not include descriptions of medical diagnoses, conditions, or services. The proposed amendments are as follows:

Rule 1:38-3. Court Records Excluded from Public Access

The following court records are excluded from public access:

(a) General. [Records required to be kept confidential by statute, rule, or prior case law consistent with this rule, unless otherwise ordered by a court upon a finding of good cause.] These records remain confidential even when attached to a non-confidential document, unless otherwise ordered by a court:

(1) Records required to be kept confidential by statute, rule, or prior case law consistent with this rule.

(2) Medical, psychiatric, psychological, and alcohol and drug dependency records, reports and evaluations. Statements required for medical billing that do not include descriptions of medical diagnoses, conditions, or services are not excluded from public access.

(b) – (f) no change

An [October 15, 2019](#) notice to the bar sought comments on a similar proposal. The earlier proposed amendatory language has been updated in light of comments submitted in response to that earlier notice, including to provide that medical billing statements that do not include private medical information would not be excluded from public access.

The rationale for the proposed amendments to Rule 1:38-3(a) is as set forth in the October 15, 2019 notice. The exclusion from public access would apply to all case types.

Please send any comments on the proposed amendments in writing by June 20, 2022 to:

Glenn A. Grant
Administrative Director of the Courts
Comments on Proposed Amendments to Rule 1:38-3 - Exclusion of
Medical and Related Records from Public Access
Hughes Justice Complex, P.O. Box 037
Trenton, New Jersey 08625-0037

Comments may also be submitted by email to: Comments.Mailbox@njcourts.gov.

The Supreme Court will not consider comments submitted anonymously. Thus, those submitting comments by mail should include their name and address and those submitting comments by email should include their name and email address. Comments submitted in response to this notice are subject to public disclosure.



Glenn A. Grant
Administrative Director of the Courts

Dated: May 17, 2022